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IN THE

Supreme Court of the United States

OCTOBER TERM, 1954

No. [redacted] 80

JAMES R. ELLIS, as President of the Yonkers Committee for Peace, an unincorporated association,

Petitioner,

against

WILLIAM DIXON, *et al.*, as members of the Board of Education of the City of Yonkers, etc.,

Respondents.

PETITION FOR A WRIT OF CERTIORARI TO THE APPELLATE DIVISION OF THE SUPREME COURT OF THE STATE OF NEW YORK

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BATAVIA TIMES LAW PRINTERS,
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IN THE

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OCTOBER TERM, 1953

Docket No. .....

JAMES R. ELLIS, as President of the Yonkers Committee for Peace, an unincorporated association,

Petitioner,

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WILLIAM DIXON, *et al.*, as member of the Board of Education of the City of Yonkers, etc.,

Respondents.

PETITION FOR A WRIT OF CERTIORARI TO THE APPELLATE DIVISION OF THE SUPREME COURT OF THE STATE OF NEW YORK

Your petitioner, James R. Ellis, by Emanuel Redfield, his attorney, prays that a Writ of Certiorari issue to review the judgment of the Appellate Division of the Supreme Court of the State of New York, Second Judicial Department.

The petitioner commenced a proceeding in the Supreme Court, State of New York, County of Westchester, pursuant to Article 78, Civil Practice Act, to require respondents to permit petitioner unincorporated organization to

use school property for public forums as was permitted by respondents to other persons and organizations. The application was denied by Special Term on the ground that the subject of the forum, peace, was controversial and further, petitioner should have resorted to an appeal to the Commissioner of Education. The Appellate Division, Second Department, upon appeal to it, affirmed the order on April 20, 1953, but held that the proceeding was properly brought before the court below. Nevertheless, the Appellate Division held that "the petition does not allege facts which allege a clear legal right to the relief sought nor which establish that respondents failed to perform a duty enjoined by law." The Appellate Division by order dated May 18, 1953, denied leave to appeal to the Court of Appeals. On October 22, 1953, the Court of Appeals denied petitioner's motion for leave to appeal to that court.

Thus the order of affirmance by the Appellate Division and denial of review by the Court of Appeals renders that Court the highest court in the state in which a decision in this proceeding can be held. *Niemotko v. Maryland*, 340 U. S. 268.

The Importance of this Case

This Court has never passed upon the serious question of free speech which is becoming recurrent (See *State of Ohio, ex rel. Greisinger v. Grand Rapids Board of Education*, October Term, 1949; *Halvajian v. Board of Education of City of Inglewood*, October Term, 1950; *Lyon v. Compton Union High School, etc.*, October Term, 1950, No. 627; *McKnight v. The Board of Education*, October Term, 1950, No. 649). Those cases involve the delicate question of the separation of church and state, since a religious group

sought the use of the public building for speaking. This case is free of the question of the use for a *religious* purpose.

The importance of this case is further emphasized by the fact, that the highest court of California in *Danskin v. San Diego Unified School District* (1946), 28 Cal. (2nd) 536, held squarely contrary to the decision in this case.

It is submitted that the time is ripe for a decision to lay at rest any doubts.

Opinion Below

The Appellate Division, which was the last court in which a decision was had (the Court of Appeals having refused leave to appeal to it) wrote a memorandum opinion. The opinion is contained in Appendix A to this Petition which is made a part hereof. The Supreme Court, Westchester County, wrote an opinion which is contained in the Record, folio 41.

Although the Supreme Court, Westchester County held that the appeal to the courts was not the proper remedy, nevertheless the Appellate Division held it to be the proper remedy.

Questions Presented

1. Does the construction and application of Section 414 of the Education Law of the State of New York and the "Rules and Regulations for Use of School Buildings and Grounds, Yonkers Board of Education" so as to prohibit assembly and public speaking by petitioner and his organization in the school buildings of Yonkers, New York, when not in use for school purposes, abridge petitioner's free-

doms of assembly and speech contrary to the First and Fourteenth Amendments to the Constitution of the United States?

2. Does the construction and application of Section 414 of the Education Law of the State of New York and the "Rules and Regulations for Use of School Buildings and Grounds, Yonkers Board of Education" so as to prevent assemblies by petitioner and his organization for public speaking on the subject of peace, while allowing meetings, forums and public discussions by other organizations as an accepted practice?

Statutes Involved

This case draws into question the validity of state legislation as construed, known as Section 414 Education Law of the State of New York. A copy of said statute is set forth as Appendix B to this statement.

The "Rules and Regulations for Use of School Buildings and Grounds, Yonkers Board of Education" are annexed hereto as Appendix C.

The statute was construed and applied by the Supreme Court, Westchester County to the admitted allegations of fact of the petition (since no answer was served) so as to mean that no subject of a "controversial" nature may be presented at a forum in public school property.

Although the Supreme Court, Westchester County had also ruled that the procedure in this instance should not have been by appeal to the courts, nevertheless, the Appellate Division held the contrary, and held that the remedy by appeal to the courts was proper.

As so construed and applied, the statute impaired petitioner's right of freedom of speech and assembly in that the word "controversial" is indefinite and uncertain and furthermore was discriminatory against petitioner's organization, since other organizations could use the property without hindrance in that respect.

Matters Related to Jurisdiction

Timeliness

The Court of Appeals of the State of New York, the highest court in the State, denied petitioner's motion for leave to appeal to it on October 22, 1953. The denial of such motion is not an affirmance of the decision below. *Matter of Marchant v. Mead-Morrison Manufacturing Co.*, 252 N. Y. 284.

The original application to the Supreme Court of the State of New York was denied by order dated January 22, 1953. An appeal was taken to the Appellate Division of the Supreme Court which affirmed the order by its order dated April 20, 1953. A motion for leave to appeal to the Court of Appeals was brought on May 8, 1953 (Section 592 subdivision 5(c), New York Civil Practice Act). That Court denied the motion by order dated May 18, 1953. Thereafter, by motion dated and served May 27, 1953, returnable the first available motion day, to wit: October 5, 1953, petitioner sought leave to appeal to the Court of Appeals (Section 592, subdivision 5(a) New York Civil Practice Act). The Court of Appeals denied such leave on October 22, 1953. Thus, the Supreme Court of the State of New York, Appellate Division thereof, is the last court in which a decision could be had. *Niemotko v. Maryland*,

340 U. S. 268. On that date petitioner exhausted his State remedies. The petitioner is therefore duly presented and filed within the time after the order became final.

Nature of Case

This is a proceeding in the nature of a mandamus proceeding brought by petitioner in the Supreme Court of the State of New York, County of Westchester, to compel the issuance of a permit to allow the petitioner's organization to use a public school in Yonkers, New York, for out of school purposes, under Section 414, Education Law of New York and the rules of the appellees promulgated pursuant thereto. (Article 78, New York Civil Practice Act.)

How Constitutional Questions Raised

In paragraphs 17 and 18 of the Petition it is alleged that the rights of petitioner and his organization under the Constitution of the United States have been denied (Record pp. 11, 12). These facts are adverted to in the opinion of the Supreme Court (Record p. 14).

Statutory Provisions Sustaining Jurisdiction

Jurisdiction of the Supreme Court of the United States is invoked under 28 U. S. C. 1257 (3).

Judgment Below Not Supported by Adequate Non-Federal Ground

At Special Term, in the Supreme Court, Westchester County, the Court in addition to holding that petitioner's forum was "controversial", that the petitioner's remedy

was by appeal to the Commissioner of Education and not to the courts. Upon review of that order, the Appellate Division held however, "The proceeding was properly before the court." Thus, the only possible non-federal question was decided in petitioner's favor. It thus became the law of the case. *Buffalo v. De Bon*, 232 A. D. 318.

The conclusion of the Appellate Division that the petitioner properly appealed to the courts was inescapable by reason of the decisions of the Supreme Court of the United States and of the highest courts of the State of New York.

The argument on this point is as follows:

When we consider that the rule is that once the Commissioner of Education has ruled there can be no appeal to the Courts (see *Levitch v. Board of Education*, 243 N. Y. 373; *Chapin v. Board of Education*, 291 N. Y. 241) how is a citizen to protect his constitutional rights? If he is debarred from pursuit of the protection of his constitutional rights in the Courts such procedure would be unconstitutional (Re *Oliver*, 333 U. S. 257; *Cole v. Arkansas*, 333 U. S. 196, 201); *United States v. Spector*, 343 U. S. 169, 172; 178-180; *Ohio Valley Water Co. v. Ben Avon*, 253 U. S. 287; *Prentis v. Atlantic Coast Line*, 211 U. S. 210, 228.

In Matter of *Sloat v. Board of Education*, 274 N. Y. 367, 370, 374 the right to appeal to the Courts was sustained for relief from the arbitrary acts of the Board of Education.

Lederman v. Board of Education, 301 N. Y. 476—where an attack was made on the constitutionality of Section 3022 Education Law. No review under Section 310 Education Law by the Commissioner was had or required.

Burstyn v. Wilson, 303 N. Y. 242, where an attack was made upon the reasonableness of the discretionary ruling barring a motion picture from exhibition. No review was required by the commissioner.

Lewis v. Board of Education, 258 N. Y 117, was an action to restrain the purchase and use of religious books in schools. No resort to the Commissioner was required as the exclusive remedy.

Specification of Errors to be Urged

1. The Court of last resort in which a decision could be had herein has in effect decided federal questions of substance not in accordance with applicable decisions of this Court, in that:

A. It held, contrary to *West Virginia State Board of Education v. Barnette*, 319 U. S. 624, 642; *Terminiello v. Chicago*, 337 U. S. 1; *DeJonge v. Oregon*, 299 U. S. 353, 364, that the "controversial" nature of speech permits the public officer to bar such speech.

B. It held, contrary to *Marsh v. Alabama*, 326 U. S. 501, *Thornhill v. Alabama*, *Hague v. C. I. O.*, 307 U. S. 496, *Schneider v. State*, 308 U. S. 147, *Niemotko v. Maryland*, 340 U. S. 268, that the municipality may bar speech because of its ownership of a public building, even though it has dedicated and granted the use of the building to the public for public speech.

C. It held, contrary to *Niemotko v. Maryland*, 340 U. S. 268, that the denial of the use by petitioner for a public forum of the public building, although granted to others for public speaking, was not a denial of the equal protection of the laws.

Statement of the Case

The petition alleges that the unincorporated association herein composed of citizens of Yonkers and Westchester County sought to obtain the use of school facilities to hold a forum on the subject of peace. Application was made more than once and each time denied (ff. 22-30). Petitioner attempted to obtain the reason for refusal so that compliance with the requirements could be made. But the reason was refused (ff. 24, 30).

The City of Yonkers, pursuant to Section 414 of the Education Law has adopted regulations for the use of the school property during after-school hours by organizations such as petitioner (f. 30, see Appendix C). The petition alleges that the respondents, pursuant to such regulations, has permitted other organizations the use of such school property on so many numerous occasions (whose numbers are best known to respondents) that it has become an accepted practice (f. 32).

The respondents did not file an answer as required by Section 1291, Civil Practice Act, and therefore the allegations of the petition must be deemed admitted. (Section 1291).

The petitioner has fulfilled the requirements of the respondents, but the petitioner has not been apprised of any infirmity in their application or status. Therefore, the petitioner asserts the organization has been deprived of the equal protection of the laws in violation of the Constitution of the United States and has been deprived of the right of freedom of speech and assembly as guaranteed by the Constitution of the United States (ff. 33, 34).

The Questions Are Substantial

Introduction

The Bill of Rights, which is the quintessence of all the ethical teachings over the centuries, tells us that a person should have a right to talk on any subject he wishes, so long as the speaker does not incite to riot, incite to unlawful conduct or arouse to lust. Yet, it is interesting to note how plagued a person may be with prolonged litigation in order to obtain such a simple right. In this case, the Supreme Court, Westchester County, Special Term was moved by the fear that the subject matter might be "controversial" —as if controversy were some sort of taboo, and construed the statutes as forbidding the use of school property for "controversial" discussions.

On the Subject of Controversy

Since the Supreme Court, Westchester County, was influenced by what it thought to be the character of the forum, it may be profitable to examine the subject of "controversy". It is surprising that a Court should be afraid of a discussion that is "controversial". Lawyers and judges, of all people should know that controversy is the generating source of truth. The daily contentions of lawyers with propositions are indulged so that truth may be determined. Judges discuss and contend with each other in conference rooms so that truth may be ascertained. The conclusion that can be drawn is that controversy is a most desirable form of intellectual exercise, and should be encouraged. Why, therefore, this fear of this most efficient and healthy approach to truth?

Judge Brandeis put it down in memorable words:

> "Those who won our independence by revolution were not cowards. They did not fear political change. They did not exalt order at the cost of liberty. To courageous, self-reliant men with confidence in the power of free and fearless reasoning applied through the processes of popular government, no danger flowing from speech can be deemed clear and present, unless the incidence of the evil apprehended is so imminent that it may befall before there is opportunity for full discussion. If there be time to expose through discussion the falsehood and fallacies, to avert the evil by the processes of education, the remedy to be applied is more speech, not enforced silence. Only an emergency can justify repression. Such must be the rule if authority is to be reconciled with freedom." Whitney v. California, 274 U. S. 357, 375.

Assuming that a speaker's words were intended as the acts of a fifth columnist. Isn't it better that we know what the speaker stands for? That is what the Constitution intended. That is what Judge Brandeis meant. That is the American way. Open debate is not only a safety valve, in a cathartic sense, but is a guide to the safety of the Republic, because we learn, openly, the views of those who are for us, and those who are against us. The substitution of brawn for brain, or the suppression of speech leads to furtive activities.

Assuming that school facilities cannot be used for speech on a controversial subject, the test then is, *how do we know when it is controversial?* The Supreme Court, Westchester County, said the proposed subject, discussion of peace and war, were of a controversial nature. Where does one draw the line? If a discussion of peace can be controversial, then there seems to be nothing that can be without controversy. Even the discussion of formal and accepted truths of mathematics can be controversial. For instance, the axiom that

parallel lines never meet,—a fact we all accept, has been the subject of debate among non Euclidean mathematicians, who contend that they meet at infinity (Morris Cohen—"Reason and Nature", p. 173). What, therefore, can be left for a forum to discuss? The answer is that controversy exists in everything. It depends upon who the speaker is and who the listener is. If a listener accepts everything a speaker says, there can be no controversy.

Therefore, the criterion for determining the grant of the use of the premises upon the basis of lack of controversial subject matter has no basis in sound sense. Such basis would offend the Constitution of the United States. *West Virginia State Board of Education v. Barnette* 319 U. S. 624 at 642; *Terminiello v. Chicago*, 337 U. S. 1; *DeJonge v. Oregon*, 299 U. S. 353 at 364; *Feiner v. New York*, 340 U. S. 315, at 320 where it was said:

> "We are well aware that the ordinary murmurings and objections of a hostile audience cannot be allowed to silence a speaker, and are also mindful of the possible danger of giving overzealous police officials complete discretion to break up otherwise lawful public meetings."

Furthermore, Section 414, Education Law, does not bar the use of school property if the subject is controversial. The Supreme Court, Westchester County, derived its support from the opinions of the Attorney-General in certain communications. It is respectfully submitted that those opinions have no binding judicial validity. They are opinions submitted by the legal adviser of the State to various state agencies.

There Has Been Discrimination Against Petitioner

The respondents have been arbitrary in denying the use of the school not only because they refused to give a reason for the denial, not only because the subject of the forum may be or is "controversial," but because nothing in the law permits them to deny the use to the petitioner's organization where they have granted it to so many others. Paragraph "15" of the petition alleges that organizations similar to petitioner's have been granted permission to use the schoolhouses of Yonkers for public forums on innumerable occasions. The failure by respondents to deny paragraph "15" of the petition is an admission of the use to which the school properties have been put. Since no valid reason is given why the petitioner has been selected for denial, it is obviously a discrimination. It is thus an unconstitutional discrimination forbidden by the Federal Constitution. *Yick Wo v. Hopkins*, 118 U. S. 356 at 369; *Niemotko v. Maryland*, 340 U. S. 268.

The Grant of Use of Public Property is Subject to Constitutional Guarantees

To any contention that could be made that the State can withhold the use of its property and therefore does not have to permit its use by appellant or anyone, the answer is that once the grant is in existence then constitutional limitations and guarantees affect such use. For instance, in *Hague v. C. I. O.*, 307 U. S. 496, where streets are permitted to be used for public speaking; *Gaines v. Canada*, 305 U. S. 496, where streets are permitted to be used for public speaking; *Gaines v. Canada*, 305 U. S. 337, where schools established by the state were required to fulfill constitutional guarantees against discrimination; *Murdock v.*

Pennsylvania, 319 U. S. 105, where a tax on religious book vendors in the streets was held unconstitutional; *Schneider v. State*, 308 U. S. 147, where it was held that while a state may regulate the conduct of those who use streets for purposes other than movement on them, nevertheless, such regulations may not abridge constitutional guarantees; *Thornhill v. Alabama*, 310 U. S. 88, and *Niemotko v. Maryland*, 340 U. S. 268 to like effect.

Marsh v. Alabama, 326 U. S. 501 involved a conviction for distributing literature on privately owned property. The Court there observed (pp. 505-506): "We do not agree that the corporation's property interests settle the question * * * Ownership does not always mean absolute dominion. The more an owner, for his advantage, opens his property for use by the public in general, the more do his rights become circumscribed by the statutory and constitutional rights of those who use it."

In *Danskin v. San Diego Unified School District* (1946), 28 Cal. (2d) 536, the Supreme Court of California held unconstitutional, a requirement that the applicant swear that the group seeking the use of the school is not an organization advocating the overthrow of the government by force. It held that such requirement was a suppression of freedom of speech and assembly. It said, "the state is under no duty to make school buildings available for public meetings * * * If it elects to do so, however, it cannot arbitrarily prevent any members of the public from holding such meetings * * * Nor can it make the privilege of holding them dependent on conditions that would deprive any members of the public of their constitutional rights."

These citations stand for one common proposition, that is expressed or implicit—that once a public right is extend-

ed, which could otherwise be withheld, nevertheless, constitutional rights attend such grants. Therefore, petitioner has the constitutional right to insist that his organization be treated on equal terms with others and that his right of speech be not abridged.

The same citations stand for the proposition that the constitutional rights of the petitioner have been impaired in so far as the action of the respondents has resulted in denying the petitioner the rights of freedom of speech and assembly. The respondents by their actions have censored petitioner in advance, and have deprived it the opportunities of speech, which it provided to others.

What has been countenanced by the State courts in this case is precensorship of petitioner's speech.

Conclusion

The petition should be granted and the judgment should be reversed.

Respectfully submitted,

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APPENDIX A

Opinion of Appellate Division

New York Law Journal 4/21/53, p. 1320.

Matter of *Ellis, ap* (*Dixon, Jr., res*)—In a proceeding under article 78 of the Civil Practice Act to compel respondents to grant permission for the use of a school building by an unincorporated association of which petitioner is president, petitioner appeals from an order which denied his application and which granted respondents' cross-motion to dismiss the petition. Order unanimously affirmed, with $10 costs and disbursements. The proceeding was properly before the court. However, the petition does not allege facts which establish a clear legal right to the relief sought nor which establish that respondents failed to perform a duty enjoined by law.

APPENDIX B

§ 414. Use of Schoolhouse and Grounds Out of School Hours

Schoolhouses and the grounds connected therewith and all property belonging to the district shall be in the custody and under the control and supervision of the trustees or board of education of the district. The trustees or board of education may adopt reasonable regulations for the use of such schoolhouses, grounds or other property, when not as are herein provided. Such regulations shall not conin use for school purposes, for such other public purposes flict with the provisions of this chapter and shall conform to the purposes and intent of this section and shall be subject to review on appeal to the commissioner of education as provided by law. The trustees or board of education of each district may, subject to regulations adopted as above provided, permit the use of the schoolhouse and rooms therein, and the grounds and other property of the district when not in use for school purposes, for any of the following purposes:

1. For the purpose of instruction in any branch of education, learning or the arts.

2. For public library purposes, subject to the provisions of this chapter, or as stations of public libraries.

3. For holding social, civic and recreational meetings and entertainments, and other uses pertaining to the welfare of the community; but such meetings, entertainment and uses shall be nonexclusive and shall be open to the general public.

4. For meetings, entertainments and occasions where admission fees are charged, when the proceeds thereof are to be expended for an educational or charitable purpose; but such use shall not be permitted if such meetings, entertainments and occasions are under the exclusive control, and the said proceeds are to be applied for the benefit of a society, association or organization of a religious sect or denomination, or of a fraternal, secret or exclusive society or organization other than organizations of veterans of the military, naval and marine service of United States and organizations of volunteer firemen.

5. For polling places for holding primaries and elections and for the registration of voters and for holding political meetings. But no political meetings shall be permitted unless authorized by a vote of a district meeting, held as provided by law, or, in cities by the board of education thereof. Except in cities, it shall be the duty of the trustees or board of education to call a special meeting for such purpose upon the petition of at least ten per centum of the qualified electors of the district. Authority so granted shall continue until revoked in like manner and by the same body as granted.

6. For civic forums and community centers. Upon the petition of at least twenty-five citizens residing within the district or city, the trustees or board of education in each school district or city shall organize and conduct community centers for civic purposes, and civic forums in the several school districts and cities, to promote and advance principles of Americanism among the residents of the state. The trustees or board of education in each school district or city, when organizing such community centers or civic

forums, shall provide funds for the maintenance and support of such community centers and civic forums, and shall prescribe regulations for their conduct and supervision, provided that nothing herein contained shall prohibit the trustees of such school district or the board of education to prescribe and adopt rules and regulations to make such community centers or civic forums self-supporting as far as practicable. Such community centers and civic forums shall be at all times under the control of the trustees or board of education in each school district or city, and shall be nonexclusive and open to the general public.

APPENDIX C

Rules and Regulations for Use of School Buildings and Grounds

YONKERS BOARD OF EDUCATION
YONKERS, N. Y.

1. All applications for the use of public school buildings and grounds shall be made in writing upon the forms of the Board of Education and submitted to the Secretary of the Board of Education at least fifteen days in advance of the date requested. No reservation shall be valid until said application has been filed and approved in accordance with the provisions of these rules.

2. The use of school buildings and grounds after school hours shall be governed by Section 414 of the State Education Law and Section 4 of Article XI of the New York State Constitution.

3. All affairs in the public schools must be non-exclusive and open to the public without charge, except when the proceeds of such affair are to be devoted to the purposes set forth in Section 414 of the State Education Law.

4. When admission is charged the applicant shall be responsible for the payment of any and all State and Federal taxes.

5. Whenever school buildings or grounds are desired for school activities after 5:00 P. M. on school days or on Saturdays the same application shall be required.

6. School activities shall take precedence over any non-school activity.

7. All fees charged for the use of school buildings or grounds must be paid at least five days in advance of the date reserved, and no permits shall be postponed or cancelled by the applicant unless the request for such postponement or cancellation shall have been received and approved at least five days prior to the date stipulated in the permit.

8. All non-school organizations desiring to use school property shall be required to file with the Secretary of the Board of Education an approved form attesting that they are not subversive and fully conform to all provisions of statute and regulations as established by the State of New York and/or the Board of Education of the City of Yonkers, New York.

9. The custodian shall be the representative of the Board of Education and shall be responsible for the enforcement of the rules and regulations of the Board. The term "Custodian" as used herein, is intended to mean the head custodian of a building, or any member of his staff who is in charge of the building at the time of its use by any organization.

10. The permit shall include the services of the custodian and his assistants in the performance of their regular duties. These duties do not include the setting or aiding in setting up of scenery or special stage equipment, moving furniture or other heavy equipment. He may, however, be required to place chairs or tables where needed.

11. The showing of motion pictures in the public schools shall be subject to the following regulations:

a. Incandescent lamps exceeding 1000 watts may not be used.

b. Only safety film may be used. The use of 35 m.m. nitrous oxide film is forbidden. Any variation from

this regulation must be approved by formal resolution of the Board of Education and written consent of the Chief of the Yonkers Fire Department.

c. All electrical installations must be in conformity with local and state fire and safety laws.

12. No cash prizes, drawing for cash, or playing of games for cash shall be permitted.

13. A building-use permit does not allow the subletting of any portion of the building.

14. Both the individual signing the application and the organization which he represents shall be held responsible for any breakage or damage to supplies, equipment, buildings or grounds.

15. Smoking, the use of intoxicants or profane or indecent language or conduct shall positively be prohibited in any and all parts of the school building.

16. The use of any building when not in use for school purposes and up to 5 P. M. on school days may be obtained upon approval of the principal of the school. No other approval is necessary except where admission is to be charged, in which event the Secretary of the Board of Education shall be notified in advance as to the amount of said admission charge, in order that the Collector of Internal Revenue may be notified. The principal shall refer any questionable application to the Permit Committee, consisting of the Superintendent of Schools, the Deputy Superintendent of Schools, the Secretary of the Board of Education, for appropriate action.

17. The multiple use of school buildings shall be encouraged in order to effect more economical operation of the physical plant.

18. No school building may be used after 12:00 o'clock midnight.

19. Special permission from the Board of Education must be obtained for Sunday use of school property.

20. Athletic fields, for other than school activities, may be used only by special permission of the Board of Education.

21. There shall be no reduction of fees for summer use of school property.

22. The rental permit shall state the exact portion of building to be used and organizations shall be required to conform.

23. No member of the custodial staff may be required to work more than two nights per week for activities other than those which are associated with his regular duties.

24. The Secretary of the Board of Education shall refer any questionable applications to the Permit Committee as outlined under rule No. 16.

25. The Board of Education expressly reserves the right to refuse, deny, or revoke the right to use public school property, whenever, or wherever such action or refusal is deemed by the Board of Education, in its sole judgment, to be in the best interests of the public schools.

26. All service and custodial fees collected under these regulations shall be credited to a revolving fund in a manner prescribed by and acceptable to the proper administrative officers of the City of Yonkers and the Board of Education of Yonkers, N. Y. Proceeds of such fund shall be used to pay custodial services and pay the cost of heat, light, fuel and custodial maintenance supplies.

27. The fees for the use of school buildings and property shall be as follows:

BUILDING USE FEES

Service Charges—after 5 P. M.

	Auditorium	*Gymnasium*	*First Classroom*	*Additional Classroom*	*Cafeteria*	*Kitchen*
Roosevelt High School Gorton High School Yonkers High School Commerce High School Saunders Trades School Hawthorne Jr. High School	$50.00	$20.00	$5.00	$2.50	$25.00	$2.00
Schools #1 and #26	10.00	10.00	5.00	2.50	25.00	2.00
All other schools	25.00	10.00	5.00	2.50	25.00	2.00

Service charges for rehearsals—one half the regular charge

Classrooms used in conjunction with auditorium, gymnasium or cafeteria facilities shall be at the rate for additional classrooms.

Custodial Fees (per employee, regardless of multiple use of buildings)

$5.00 for the first three hours up to 11 P. M.—Monday through Friday.

Overtime at the rate of $.75 each additional half hour up to 11 p. m. and $1.50 each half hour or fraction thereof after 11 P. M.

$3.00 per hour per man for Saturday, Sunday and Legal Holidays.

The Recreation Commission, Boy Scouts, Girl Scouts and approved Civil Defense organizations shall not be charged a service fee for the use of any portion of a building except when admission is charged. When admission is charged the regular service fees shall be charged.

Organizations of the Yonkers Public Schools, Parent-Teachers Associations, Neighborhood Councils or Senior Councils of the Yonkers Public Schools shall not be charged a service fee at any time for any use of public school buildings.

Any Yonkers community organization whose objectives are educational, cultural, and non-profit making within the meaning of the Education Law may be granted exemption from, or reduction of, service fees, if upon special application, considered at a regular Board meeting, such reduction or waiver of fees is deemed by the Board of Education in its sole judgment, to be in the community interest.

SPECIAL REGULATIONS

Auditoriums:

Pi[illegible]o and normal stage equipment may be used by arrangement with the school custodian.

Where special piano tuning is required arrangements shall be made with the Director of Music.

Special equipment such as scenery, projectors or public address system may not be used without special arrangement.

Special lighting equipment may be used when it is a permanent installation of the auditorium.

Special or additional lighting equipment may be used only under the supervision of a licensed electrician and all temporary wiring or changes in wiring must be approved by the Supervisor of Buildings of the Board of Education before operation will be permitted.

Gymnasium:

Rental of gymnasiums shall include the use of locker and shower rooms where available.

Special equipment or apparatus may not be used without special arrangement.

Cafeterias: (for use by outside groups for dinners, etc.)

School Cafeteria personnel shall be utilized as required at stated rates, arrangements for which must be made through the Director of School Lunch Programs.

Rental does not include use of the kitchen and cooking equipment without special permission obtained beforehand.

Kitchen Privileges:

This applies only to those schools having all purpose rooms.